

# **EXHIBIT 1**

**From:** [Choa, Jonathan A.](#)  
**To:** [Jacob R. Kirkham](#); [Walsh, Jr. Peter J.](#); [Pittenger, Michael A.](#)  
**Cc:** [Sean S. Buckley](#); [Alexandria Swette](#); [barlow@abramsbayliss.com](mailto:barlow@abramsbayliss.com)  
**Subject:** RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN  
**Date:** Wednesday, June 21, 2023 12:14:46 PM

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Jacob:

We disagree that JPMC has not provided a reason for withholding unredacted copies of the exhibits to its PSLRA opposition brief from Mr. Amar. As explained in my prior email, JPMC redacted names (but not any substance) from the exhibits “in an abundance of caution given privacy concerns and that there is no confidentiality agreement or protective order in place in this litigation.” That Mr. Amar does not like the reason does not mean that a reason was not provided.

We note again that the matter before the Court is a motion to partially lift the PSLRA automatic discovery stay. There is no plausible good faith reason for why Mr. Amar needs the names of the former Frank employees on the Slack messages and emails at issue in order to submit a reply brief on the question of whether the Court should allow discovery (full or partial) while Mr. Amar’s motion to dismiss remains pending. In other words, Mr. Amar’s unsupported claims regarding prejudice lack merit.

Best,  
Jonathan



**Jonathan A. Choa | Partner**

Pronouns: *he / him / his*

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**From:** Jacob R. Kirkham <[Jacob.Kirkham@kobrekim.com](mailto:Jacob.Kirkham@kobrekim.com)>  
**Sent:** Tuesday, June 20, 2023 7:32 PM  
**To:** Choa, Jonathan A. <[jchoa@potteranderson.com](mailto:jchoa@potteranderson.com)>; Walsh, Jr. Peter J. <[pwalsh@potteranderson.com](mailto:pwalsh@potteranderson.com)>; Pittenger, Michael A. <[mpittenger@potteranderson.com](mailto:mpittenger@potteranderson.com)>  
**Cc:** Sean S. Buckley <[Sean.Buckley@kobrekim.com](mailto:Sean.Buckley@kobrekim.com)>; Alexandria Swette <[Alexandria.Swette@kobrekim.com](mailto:Alexandria.Swette@kobrekim.com)>; [barlow@abramsbayliss.com](mailto:barlow@abramsbayliss.com)  
**Subject:** [EXT] RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

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Jon,

While we disagree with your arguments and assessment of the applicable case law, it misses the point. We are not asking you to file anything publicly; we are asking you to provide us with unredacted versions of the documents, and you still have given no valid basis for withholding them from us. Additionally, while we disagree with your assessment of the no-contact order you reference, that order does not apply to Mr. Amar. I don't represent Ms. Javice, so I don't need to belabor that point, but you haven't given a reason for withholding the documents from Mr. Amar. Again, please send us unredacted copies today as our reply brief is due on Thursday and we have already suffered prejudice with our inability to view the unreacted documents while preparing our brief to-date.

Best,

Jacob R. Kirkham  
+1 302 518 6456

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**From:** Choa, Jonathan A. <[jchoa@potteranderson.com](mailto:jchoa@potteranderson.com)>

**Sent:** Tuesday, June 20, 2023 6:17 PM

**To:** Jacob R. Kirkham <[Jacob.Kirkham@kobrekim.com](mailto:Jacob.Kirkham@kobrekim.com)>; Walsh, Jr. Peter J.

<[pwalsh@potteranderson.com](mailto:pwalsh@potteranderson.com)>; Pittenger, Michael A. <[mpittenger@potteranderson.com](mailto:mpittenger@potteranderson.com)>

**Cc:** Sean S. Buckley <[Sean.Buckley@kobrekim.com](mailto:Sean.Buckley@kobrekim.com)>; Alexandria Swette

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**Subject:** RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

Jacob:

The case law cited in your reply provides no support for Mr. Amar's demand. For example, in *In re Cendant Corp.*, 260 F.3d 183 (3d Cir. 2001), the Third Circuit concluded that the District Court improperly sealed all filings submitted in connection with a competitive bidding process that the District Court implemented for stockholders seeking the lead plaintiff role in a securities class action governed by the PSLRA. *Cendant* did not address public access to discovery motions, documents submitted with narrowly tailored redactions, or the standards governing the redaction of personally identifiable information prior to the entry of a customary protective order.

*Cydex Pharms., Inc. v. Alembic Glob. Holding SA*, 2020 WL 6869948, at \*1 (D. Del. Nov. 23, 2020), however, very much supports JPMC's position. That case expressly states that "there is no presumptive right of public access to discovery motions and their supporting documents." The motion by Mr. Amar and Ms. Javice to partially lift the PSLRA discovery stay is, of course, a discovery motion with supporting documents. *Cydex* ends the analysis.

What the *Cydex* Court did do was decline to redact information from the transcript of a public court hearing. Likewise, *In re Document Technologies Litig.*, 282 F.Supp.3d 743 (S.D.N.Y. 2017), the last case cited in your email and a case from a different circuit, declined to approve redactions in the transcript from a public hearing in which the court determined that the "confidential business information" at issue was not in fact confidential or commercially sensitive. There are no transcripts of court hearings at issue here.

As indicated in my prior email, JPMC did not redact any substantive information in the exhibits to its response on the PSLRA motion. The redacted names are entirely irrelevant to any potential argument that Mr. Amar and Ms. Javice might make in a reply brief that is supposed to go only to the question of whether the Court should lift the PSLRA stay. If the Court determines that a partial or full lifting of the PSLRA discovery stay is appropriate, JPMC will produce unredacted versions of the exhibits when a scheduling order and confidentiality agreement/protective order are in place.

Separately, we note that, by order of the United States District Court for the Southern District of New York, Ms. Javice is currently prohibited from contacting, among others, current JPMC employees and former Frank employees. Nearly all of the redacted names are either JPMC employees or former Frank employees and, considering the limitations imposed by the SDNY, JPMC believes it is inappropriate to share the names of current or former employees this category of individuals until appropriate court orders are entered.

Best,  
Jon

**Jonathan A. Choa** | Partner  
Pronouns: *he / him / his*



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**From:** Jacob R. Kirkham <[Jacob.Kirkham@kobrekim.com](mailto:Jacob.Kirkham@kobrekim.com)>

**Sent:** Tuesday, June 20, 2023 1:33 PM

**To:** Choa, Jonathan A. <[jchoa@potteranderson.com](mailto:jchoa@potteranderson.com)>; Walsh, Jr. Peter J.

<[pwalsh@potteranderson.com](mailto:pwalsh@potteranderson.com)>; Pittenger, Michael A. <[mpittenger@potteranderson.com](mailto:mpittenger@potteranderson.com)>

**Cc:** Sean S. Buckley <[Sean.Buckley@kobrekim.com](mailto:Sean.Buckley@kobrekim.com)>; Alexandria Swette

<[Alexandria.Swette@kobrekim.com](mailto:Alexandria.Swette@kobrekim.com)>; [barlow@abramsbayliss.com](mailto:barlow@abramsbayliss.com)

**Subject:** [EXT] RE: [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

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Jon:

While we agree with redacting phone numbers and email addresses, there is a presumption of public access to judicial records and JPMC bears the burden of showing "that the material is the kind of information that courts will protect[.]" *In re Cendant Corp.*, 260 F.3d 183, 194 (3d Cir. 2001). Under Federal Rule of Civil Procedure 5.2, the names of adult individuals do not qualify as "personally identifiable information" and are not required to be redacted. *Cydex Pharms., Inc. v. Alembic Glob. Holding SA*, 2020 WL 6869948, at \*1 (D. Del. Nov. 23, 2020) (rejecting proposed redactions of names of members of defendants' management team because "any minimal potential harm that disclosure might cause is outweighed by the public interest in having access to judicial proceedings") JPMC's generalized "privacy concerns" do not suffice to overcome the presumption in favor of public disclosure. *See, e.g., In re Document Techs. Litig.*, 282 F. Supp. 3d 743, 751 (S.D.N.Y. 2017) ("In the absence of some concrete reason as to why the Court should seal this reference, some explanation as to how this information could cause harm, the Court has no basis for redacting these general references to client identities.").

And again, we are not asking that you unredact and publicly file the exhibits; we are simply asking that you share the unredacted exhibits with the Defendants. The absence of a governing protective order in this case does not mean that JPMC can unilaterally choose what it does and does not disclose to the parties when those documents are made part of the public record. As a party to this litigation, we are entitled to a copy of the unredacted filing, particularly so that we may properly respond to your opposition brief. Our reply brief is due on Thursday, so please provide the

unredacted files by COB today to avoid any further prejudice to Defendants.

Best,

Jacob R. Kirkham  
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**From:** Choa, Jonathan A. <[jchoa@potteranderson.com](mailto:jchoa@potteranderson.com)>

**Sent:** Tuesday, June 20, 2023 10:09 AM

**To:** Jacob R. Kirkham <[Jacob.Kirkham@kobrekim.com](mailto:Jacob.Kirkham@kobrekim.com)>; Walsh, Jr. Peter J.

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**Subject:** [EXTERNAL] RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

Jacob:

JPMC did not redact any substantive information in the exhibits referenced in your email. All of the redactions are either (a) personally identifying information (names and initials) for individuals and/or entities who are not parties to this litigation and have not been referenced by name in any of the pleadings; or (b) Ms. Javice's personal cell phone number. The redactions were made in an abundance of caution given privacy concerns and that there is no confidentiality agreement or protective order in place in this litigation.

If the Court determines that a partial or full lifting of the PSLRA discovery stay is appropriate, JPMC will produce unredacted versions of the exhibits when a scheduling order and confidentiality agreement/protective order are in place.

Regards,  
Jonathan



**Jonathan A. Choa | Partner**

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**From:** Jacob R. Kirkham <[Jacob.Kirkham@kobrekim.com](mailto:Jacob.Kirkham@kobrekim.com)>

**Sent:** Tuesday, June 20, 2023 8:18 AM

**To:** Walsh, Jr. Peter J. <[pwalsh@potteranderson.com](mailto:pwalsh@potteranderson.com)>; Pittenger, Michael A.

<[mpittenger@potteranderson.com](mailto:mpittenger@potteranderson.com)>; Choa, Jonathan A. <[jchoa@potteranderson.com](mailto:jchoa@potteranderson.com)>; Jones, Carla M. <[cjones@potteranderson.com](mailto:cjones@potteranderson.com)>

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**Subject:** [EXT] RE: JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

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Counsel,

We have not received a response to our request for access to unredacted copies of the exhibits filed by JPM on Thursday evening. No basis exists for redacting the documents or withholding the redacted information from Defendants. Please send unredacted copies of the exhibits today so as to avoid any further prejudice to Defendants in filing our replies to JPMC's opposition.

Best,

Jacob R. Kirkham  
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**From:** Jacob R. Kirkham <[Jacob.Kirkham@kobrekim.com](mailto:Jacob.Kirkham@kobrekim.com)>

**Sent:** Friday, June 16, 2023 12:45 PM

**To:** [pwalsh@potteranderson.com](mailto:pwalsh@potteranderson.com); [mpittenger@potteranderson.com](mailto:mpittenger@potteranderson.com); Choa, Jonathan A. <[jchoa@potteranderson.com](mailto:jchoa@potteranderson.com)>; [cjones@potteranderson.com](mailto:cjones@potteranderson.com)

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**Subject:** JPMorgan Chase Bank, N.A. v. Javice et al., D. Del. C.A. No. 22-1621-MN

Counsel,

We received JPM's opposition brief filed last night, which included a number of partially redacted exhibits. You did not provide a justification for filing partially under seal, and we do not see a basis under Federal Rule of Civil Procedure 5.2 requiring redaction here. Please provide us with the unredacted exhibits as soon as possible so that we may properly prepare our reply brief.

Best regards,

Jacob R. Kirkham  
+1 302 518 6456

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